

AMENDED IN ASSEMBLY APRIL 9, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2351

Introduced by Assembly Member Gordon

February 24, 2012

An act to amend Section ~~65563~~ 51283 of the Government Code, relating to local ~~planning~~ government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2351, as amended, Gordon. ~~Local planning: open-space plan. Williamson Act: cancellation: fees.~~

The Williamson Act authorizes a landowner to petition the board or council of a city or county to cancel a contract entered into under the act, and requires the landowner to pay a cancellation fee, as specified. A board or council is authorized to grant tentative approval of the cancellation after the county assessor of the county in which the land is located has determined the current fair market value of the land as though it were free of the contractual restriction, and the board or council calculates the cancellation fee. Existing law sets the cancellation fee at 12.5% of the cancellation value of the property.

This bill would require a landowner that has petitioned the board or council of a city or county to cancel a contract to pay ____% of the total cancellation fee within 30 days of the board's or council's decision to grant tentative approval of the cancellation.

~~(1) The Planning and Zoning Law requires every city and county to prepare, adopt, and submit to the Secretary of the Natural Resources Agency, on or before December 31, 1973, a local open-space plan for the comprehensive and long-range preservation and conservation of open-space land within its jurisdiction.~~

~~This bill would delete the December 31, 1973, date from the above-specified provisions, thereby imposing a state-mandated local program.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~ *no*.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 51283 of the Government Code is*
2 *amended to read:*

3 51283. (a) ~~Prior to~~ *Before* any action by the board or council
4 giving tentative approval to the cancellation of any contract, the
5 county assessor of the county in which the land is located shall
6 determine the current fair market value of the land as though it
7 were free of the contractual restriction. The assessor shall certify
8 to the board or council the cancellation valuation of the land for
9 the purpose of determining the cancellation fee. At the same time,
10 the assessor shall send a notice to the landowner and the
11 Department of Conservation indicating the current fair market
12 value of the land as though it were free of the contractual restriction
13 and advise the parties, that upon their request, the assessor shall
14 provide all information relevant to the valuation, excluding
15 third-party information. If any information is confidential or
16 otherwise protected from release, the department and the landowner
17 shall hold it as confidential and return or destroy any protected
18 information upon termination of all actions relating to valuation
19 or cancellation of the contract on the property. The notice shall
20 also advise the landowner and the department of the opportunity
21 to request formal review from the assessor.

22 (b) ~~Prior to~~ *(1) Before* giving tentative approval to the
23 cancellation of any contract, the board or council shall determine
24 and certify to the county auditor the amount of the cancellation
25 fee that the landowner shall pay the county treasurer upon
26 cancellation. That fee shall be an amount equal to 12½ percent of
27 the cancellation valuation of the property.

1 (2) *The landowner shall pay _____percent of the total*
2 *cancellation fee calculated pursuant to paragraph (1) within 30*
3 *days of the board's or council's decision to grant tentative*
4 *approval of the cancellation of the contract.*

5 (c) If it finds that it is in the public interest to do so, the board
6 or council may waive any payment or any portion of a payment
7 by the landowner, or may extend the time for making the payment
8 or a portion of the payment contingent upon the future use made
9 of the land and its economic return to the landowner for a period
10 of time not to exceed the unexpired period of the contract, had it
11 not been canceled, if all of the following occur:

12 (1) The cancellation is caused by an involuntary transfer or
13 change in the use which may be made of the land and the land is
14 not immediately suitable, nor will be immediately used, for a
15 purpose which produces a greater economic return to the owner.

16 (2) The board or council has determined that it is in the best
17 interests of the program to conserve agricultural land use that the
18 payment be either deferred or is not required.

19 (3) The waiver or extension of time is approved by the Secretary
20 of the *Natural Resources Agency*. The secretary shall approve a
21 waiver or extension of time if the secretary finds that the granting
22 of the waiver or extension of time by the board or council is
23 consistent with the policies of this chapter and that the board or
24 council complied with this article. In evaluating a request for a
25 waiver or extension of time, the secretary shall review the findings
26 of the board or council, the evidence in the record of the board or
27 council, and any other evidence the secretary may receive
28 concerning the cancellation, waiver, or extension of time.

29 (d) The first two million five hundred thirty-six thousand dollars
30 (\$2,536,000) of revenue paid to the Controller pursuant to
31 subdivision (e) in the 2004–05 fiscal year, and any other amount
32 as approved in the final Budget Act for each fiscal year thereafter,
33 shall be deposited in the Soil Conservation Fund, which is
34 continued in existence. The money in the fund is available, when
35 appropriated by the Legislature, for the support of all of the
36 following:

37 (1) The cost of the farmlands mapping and monitoring program
38 of the Department of Conservation pursuant to Section 65570.

39 (2) The soil conservation program identified in Section 614 of
40 the Public Resources Code.

1 (3) Program support costs of this chapter as administered by
2 the Department of Conservation.

3 (4) Program support costs incurred by the Department of
4 Conservation in administering the open-space subvention program
5 (Chapter 3 (commencing with Section 16140) of Part 1 of Division
6 4 of Title 2).

7 (5) The costs to the Department of Conservation for
8 administering Section 51250.

9 (e) When cancellation fees required by this section are collected,
10 they shall be transmitted by the county treasurer to the Controller
11 and deposited in the General Fund, except as provided in
12 subdivision (d) of this section and subdivision (b) of Section 51203.
13 The funds collected by the county treasurer with respect to each
14 cancellation of a contract shall be transmitted to the Controller
15 within 30 days of the execution of a certificate of cancellation of
16 contract by the board or council, as specified in subdivision (b) of
17 Section 51283.4.

18 (f) It is the intent of the Legislature that fees paid to cancel a
19 contract do not constitute taxes but are payments that, when made,
20 provide a private benefit that tends to increase the value of the
21 property.

22 ~~SECTION 1. Section 65563 of the Government Code is~~
23 ~~amended to read:~~

24 ~~65563. Every city and county shall prepare, adopt, and submit~~
25 ~~to the Secretary of the Natural Resources Agency a local~~
26 ~~open-space plan for the comprehensive and long-range preservation~~
27 ~~and conservation of open-space land within its jurisdiction.~~

28 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
29 ~~Section 6 of Article XIII B of the California Constitution because~~
30 ~~a local agency or school district has the authority to levy service~~
31 ~~charges, fees, or assessments sufficient to pay for the program or~~
32 ~~level of service mandated by this act, within the meaning of Section~~
33 ~~17556 of the Government Code.~~